

REMARKS**Rejection of Claims 1-7, 14, 15, and 18-20 Under 35 U.S.C. § 102(e) – Nusbaumer**

The Patent Office rejected claims 1-7, 14, 15, and 18-20 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,944,069 to Nusbaumer ("Nusbaumer"). In order for a rejection under § 102 to stand, the single reference used as the basis for the rejection must disclose, either expressly or inherently, each and every limitation of the rejected claim in question. Nusbaumer does not disclose, either expressly or inherently, at least one limitation in each of the rejected claims and hence this rejection cannot stand.

The Patent Office rejected claim 1 by pointing to column 6, lines 35 onward in Nusbaumer. Nusbaumer is an automated fueling facility whose intent is to allow a customer to provide a code or other indicia to authorize a fueling transaction. This section in Nusbaumer discusses the "central data terminal" (150) as receiving information from interface terminals (110) throughout the entire fueling facility (10). Nusbaumer goes on to state that this information is grouped in a digitized format according to various categories and formats. Nusbaumer next states that the transactions may be provided on a monitoring screen for "instant review by the central data terminal operator" or by hardcopy via a printer (column 9, lines 45-59). The printer is accessible to the terminal operator and is not disclosed as being accessible to the customer in any manner whatsoever. Further, it is clear that the intent in Nusbaumer is to provide an operator with access to the transactions away from the interface terminals since the operator is not present at the interface terminal due to the automated nature of the system.

The feature of allowing a "central data terminal operator" access to transaction summaries in hard copy via a printer is different than the invention as claimed in claim 1. Claim 1 requires that the customer that performed the fueling transaction be able to receive a transaction accounting of the fueling transaction at a transaction accounting delivery station located remotely from the fuel dispenser – not the terminal operator. The essence of the claim invention in claim 1 is to allow the customer to receive the accounting remotely, not a station operator. Therefore, claim 1 is not anticipated by Nusbaumer.

Claim 2 depends from claim 1 and is therefore not anticipated by Nusbaumer for the same reasons as claim 1.

Claim 3 requires that the customer be provide with indicia that can subsequently be entered at the remote transaction accounting delivery station to then be inputted to the station to

identify the customer. The station can then deliver the transaction accounting that is specific for the identified customer's fueling transaction to the customer. Nothing in Nusbaumer discloses or suggests this claim limitation for this reason and also since the central data terminal 150 does not include the ability for the customer to enter in indicia and receive accounting transaction information related to the customer's fueling transaction.

Claim 4 is dependent on claim 1 and is therefore not anticipated by Nusbaumer for the same reasons as claim 1.

Claim 5 requires that the customer receive the transaction accounting remotely related to his or her previously carried out fueling transaction in response to positioning his or her vehicle proximate to the delivery station. Nothing in Nusbaumer discloses or suggest this limitation since the central data terminal (150) in Nusbaumer was not intended to be accessed by the customer.

Claim 6 is dependent on claim 1 and is therefore not anticipated by Nusbaumer for the same reasons as claim 1.

Claim 7 also has the limitation in claim 1 of the accounting being delivered to the customer, not an operator, and thus claim 7 is not anticipated by Nusbaumer for at least this reason.

Claim 14 has a similar requirement to claim 1 where the accounting information is delivered to the customer, which is not disclosed in Nusbaumer as discussed above.

Claim 15 is dependent on claim 15, and claim 14 also includes the further limitation of the customer being identified is performed by interrogating a transponder associated with the customer's vehicle. This limitation is certainly not disclosed in Nusbaumer.

Rejection of Claims 16 and 17 Under 35 U.S.C. § 103 – Nusbaumer

The Patent Office rejected claims 16 and 17 under 35 U.S.C. § 103 as being obvious in view of Nusbaumer. In order for an obviousness rejection to stand, the reference or references used as the basis for the rejection must teach or suggest each and every element of the rejected claim. MPEP 2143.03.

Claim 16, in addition to the limitations in claim 14 that have already been addressed as not being fully disclosed in Nusbaumer, includes the limitation of a token being used to present indicia related to a particular customer's transaction to the delivery station. The Patent Office's

discussion of the basis for the rejection of claim 16 is silent on this limitation, because this limitation is not taught or suggested by Nusbaumer.


Claim 17 includes a biometric sensor as the method of identifying a customer at the delivery station. Claim 17 depends on claim 14 and is patentable for this reason alone regardless of whether or not Official Notice is proper. The applicant is not traversing the Patent Office taking Official Notice at this time since such is unnecessary since claim 17 includes the limitations of claim 14 that are not taught or suggested by Nusbaumer, but the Applicant reserves the right to traverse such rejection to require the Patent Office to provide a reference on such if needed in the future to overcome this rejection.

Applicant requests reconsideration of the rejection in light of the amendments and arguments presented herein and during the telephonic interview. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:


Steven N. Terranova
Registration No. 43,185
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

OFFICIAL

Date: October 2, 2003
Attorney Docket: 2400-370

CERTIFICATE OF TRANSMISSION	
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:	
Examiner: <u>Gort, Elaine L.</u> Art Unit: <u>3627</u> Fax: <u>703-872-9327</u>	
<u>Jen Garrison</u>	Name of Sender
<u>Jen Garrison</u>	Signature
<u>10-2-03</u>	Date of Transmission

RECEIVED
CENTRAL FAX CENTER

OCT 02 2003